

E-Filed 5/11/11

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WELLS FARGO BANK, N.A.,

No. C 11-01367 RS

Plaintiff,

ORDER OF SUMMARY REMAND

v.

WILLIAM H. BLACKWELL, JR.; and
DOES 1 to 6, inclusive,

Defendants.

This case was removed from Contra Costa Superior Court where it was pending as an unlawful detainer action against defendant William Blackwell, Jr., who appears here *in pro se*. Under 28 U.S.C. § 1446(c)(4), when a notice of removal is filed, the court is directed to examine it “promptly” and, “[i]f it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.” In this case, summary remand is, in fact, appropriate.

Blackwell removed this action pursuant to 28 U.S.C. § 1441 on grounds that the complaint presents a federal question, such that it could have originally been filed in this Court under 28 U.S.C. § 1331. The existence of federal question jurisdiction is governed by the “well-pleaded complaint rule.” *Holmes Group, Inc. v. Vornado Air Circulation Systems, Inc.*, 535 U.S. 826, 830 (2002). The rule applies equally to evaluating the existence of federal questions in cases brought initially in this Court and in removed cases. *Id.* at n. 2. Under that rule, a federal question must be

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1 presented by what is or should have been alleged *in the complaint*. *Id.* at 830. The fact that a
2 federal question may be implicated through matters raised by demurrer, answer, or counterclaim is
3 insufficient. *Id.* at 831.

4 According to Blackwell's notice of removal, the purported federal question in this case
5 appears through his Answer to plaintiff Wells Fargo Bank's Complaint. Specially, he opposes the
6 unlawful detainer action on the grounds that plaintiff's Notice to Occupants to Vacate Premises was
7 allegedly defective under a provision of the federal Troubled Assets Relief Program, 12 U.S.C.
8 section 5220. Whatever Blackwell may intend to allege in response to plaintiff's Complaint,
9 however, does not give rise to removal jurisdiction. Accordingly, this action is hereby remanded to
10 the Contra Costa Superior Court.

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12 IT IS SO ORDERED.

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14 Dated: 5/11/11

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RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

1 **THIS IS TO CERTIFY THAT A COPY OF THIS ORDER WAS MAILED TO:**

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3
4 **William H. Blackwell, Jr.**
5 6168 Seneca Circle
6 Discovery Bay, CA 94505

7 Dated: 5/11/11

/s/ Chambers Staff

8 Chambers of Judge Richard Seeborg
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